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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1993

Addendum

# REPUBLIC OF KOREA

[17 November 1994]

CONTENTS


| | | Paragraphs | Page |
|---|---|---|---|
| INTRODUCTION | | 1 - 9 | 3 |
| I. | INFORMATION IN RELATION TO THE ARTICLES OF THE CONVENTION | 10 - 206 | 6 |
| A. | General measures of implementation | 10 - 26 | 6 |
| B. | Definition of the child | 27 - 36 | 10 |
| C. | General principles | 37 - 47 | 11 |
| D. | Civil rights and freedom | 48 - 76 | 13 |
| E. | Family environment and alternative care | 77 - 107 | 18 |
| F. | Basic health and welfare | 108 - 134 | 26 |
| G. | Education, leisure and cultural activities | 135 - 163 | 33 |
| H | Special protection measures | 164 - 206 | 40 |

CONTENTS (continued)

Page

Tables

1. Children population profile, by age group . . . . . 6

2. Status of needy children and placement, 1990-1993 . . . . . 21

3. The trend of adoption, 1958-1993 . . . . . 22

4. Distribution of intercountry adoption, 1993 . . . . . 23

5. Children in residential care, by type of institution, 1993 . . . . . 26

6. The trend of institution for infants and children, 1975-1980 . . . . . 26

7. Proportion of immunized Korean children, 0-1-year-old, 1989 . . . . . 27

8. Estimated number of disabled children, by age, sex and types of disability . . . . . 29

9. Number of day-nursery centres and enrolled children, by type of centre . . . . . 31

10. The trend of child-headed households, 1985-1993 . . . . . 33

11. Number of schools, classes and students by school level, 1993 . . . . . 34

12. Status of special education, 1993 . . . . . 36

13. Status of private schools, 1993 . . . . . 37

14. Size of education budget . . . . . 38

15. Proportion of juvenile delinquency . . . . . 46

Figure

1. Basic direction of child welfare in the seventh social-economic development plan . . . . . 8

## Introduction

1. All children in the Republic of Korea are entitled to a good start in life, and a secure and happy childhood. They are also entitled to have their material and emotional needs provided for. The aims of the child perspective in Korea are to ensure that "every child should have human dignity and the equal right without discrimination, receive respect as the emerging future generation, and enjoy the opportunity of developing with rectitude and self-assurance" (Children's Charter of the Republic of Korea), and to help them "grow to be a pillar of the fatherland, and realize global peace and freedom" (Youths' Charter of the Republic of Korea).

2. The philosophy of the Convention is in close accord with Korea's perception of children's rights and needs. The basic view of the Convention concerning children's rights and needs takes concrete shape in all measures of Korea to improve children's lives in a wide range of areas.

3. The Children's Charter of the Republic of Korea, consisting of preamble and 11 articles, states that the child and his/her rights must be respected. The Charter reads as follows:

### Children's Charter of the Republic of Korea

The Children's Charter of the Republic of Korea, affirming the spirit enshrined in Children's Day, holds as its guiding principles the equal rights without distinction of all children to receive respect as the emerging future generation and to enjoy the opportunity of developing with rectitude and self-assurance.

1. Children should be born under healthy circumstances and nurtured in a warm and loving home.

2. Children should receive a balanced diet, should be provided preventive measures against disease and medical treatment as required, and should be able to live in a bright and clean environment.

3. Children should receive an education in good facilities, and should be taught with due regard to their abilities and aptitudes.

4. Children should value the great national cultural tradition and should be trained to use their creative powers to develop and extend that culture.

5. Children should be given adequate space and facilities for happy and wholesome play and recreation.

6. Children should learn to observe good manners and social orders, and as members of the one national family should help others, maturing through their own strength to become fully responsible democratic citizens.

7. Children should acquire a love of nature and the arts, and should cultivate the mind and attitude of scientific inquiry.

8. Children should, above all, be protected from all harmful social conditions and dangers.

9. Children should never be subjected to abuse or neglect, nor exploited for any wrongful purpose of heavy labour.

10. Children with physical or mental disabilities should be given the education and treatment they require, while children with behavioural difficulties should be provided with guidance.

11. Children are our future and our hope for tomorrow. They should grow and develop as Korean citizens who can assume responsibility for the nation's future, and as world citizens who can contribute to the peace of all humanity.

4. The Youths' Charter of the Republic of Korea, in which the term "youth" means all the young citizens aged between 9 and 24, presents the way Korean youths should take for furthering the happiness and freedom of the human race in the world. The Charter is as follows:

Youths' Charter of the Republic of Korea

The youth shall be master of the new era.

With burning vigour and love for nature and knowledge in their hearts, youths shall unite solidly, working for the nation's development, and to bring freedom and happiness to all mankind.

Thus, we declare the direction we must take as follows:

Youths are not to be discriminated against on the basis of family background, gender, school attainment, or physical condition. It is by refining and nurturing their aptitudes and abilities that youths are to obtain the wisdom and courage to overcome the difficult tasks of life before them.

Home is where the youth fosters sentiments, and shares love and dialogue. Parents should present a model of honest life, and youths should develop manners respectful towards elders and attain a positive attitude.

School is where youths, through balanced learning, develop culture, knowledge, and physical strength. A youth's talent must be respected and the school should teach ways to enrich life through self-fulfilment, as well as raising the spirit of cultural awareness and democratic citizenship.

The society is where youths enjoy working and render services with pride. The society should assist the growth and development of youths and provide a good neighbourhood for leisure and healthy living.

> The nation must love its youth, and should make its utmost efforts for policies affecting them. The nation must provide them with all necessary learning and working places, and youths in need must be protected by the State on an individual level, so that they can adjust themselves to their surroundings and become fully independent citizens.

5. The past 30 years have witnessed great socio-economic development in the Republic of Korea. There have been achievements in health areas with economic growth. The prenatal care rate has increased to 95 per cent, and the institution delivery rate to 99 per cent. There has been a rapid reduction in infant mortality, and the rate was 12.8 per 1,000 births in 1992. The national health insurance system established in 1989 has provided high-quality health care for adults and children alike.

6. Education is regarded as of great importance in Korean society, and has functioned as the driving force of socio-economic development in Korea. Compulsory nine-years' education is every child's right. Higher education is provided to those suitably qualified and motivated to benefit from it. Of the children completing their six-year's primary education, 99.9 per cent are in junior high school, and 99.1 per cent of junior high school graduates are in senior high school. The Government has sought to raise the standards of education as well as to increase the opportunities of education for all children.

7. The Child Welfare Act in Korea reflects the principles of the Convention. It was established in 1961 to provide social security benefits for children in need, such as children in poor households, and orphans during the Korean War. Even though economic growth, started since 1960, brought a general rise in the standard of living, new problems began to occur: that is, family disorganization such as divorce, separation, and abuse, and the increasing needs of day-care for working mothers' children. The need for a comprehensive programme not only for children in need but also for all the children of the country was required. Thus, on 13 April 1981, the original Child Welfare Act was fully amended to broaden provision of welfare services for children in need to all children for their healthy development.

8. In the majority of cases, children and youths grow up in good conditions. But the Government recognizes that there are still children who are in need of help in Korea. Some children are getting off to a worse start than others. The Government is conscious of the deficiencies to be tackled. The Republic of Korea has a large number of non-governmental organizations contributing for children's rights. The Government continues through legislation, policy and practice to strive to promote the best interests of children.

9. As of the end of 1990, the number of children aged 18 years or under was 13,752,575, 31.7 per cent of the total population. There were more boys than girls; the sex ratio of children was 107.3 in 1990. The number of children is projected to decrease to about 12 million (26 per cent of the total population) in 2000, 11 million (23 per cent) in 2010, and 10 million (20 per cent) in 2020.

Table 1

Children population profile, by age group

(unit: 1,000 persons)

| | 1980 | 1985 | 1990 | 1995 | 2000 |
|---|---|---|---|---|---|
| Total | 37 407 | 40 420 | 43 390 | 44 851 | 46 789 |
| Children | 15 219 | 14 844 | 13 752 | 12 801 | 12 037 |
| (Children/Total, %) | (40.7) | (36.7) | (31.7) | (28.5) | (25.7) |
| 0 year | 755 | 611 | 632 | 673 | 669 |
| 1-5 years | 3 840 | 3 929 | 3 313 | 3 304 | 3 363 |
| 6-11 years | 5 486 | 4 763 | 4 877 | 3 956 | 3 947 |
| 12-17 years | 5 138 | 5 541 | 4 930 | 4 868 | 4 058 |

## I. INFORMATION IN RELATION TO THE ARTICLES OF THE CONVENTION

### A. General measures of implementation

10. The Republic of Korea signed the Convention on the Rights of the Child on 25 September 1990, and submitted the act of ratification on the Convention with reservations on three points on 20 November 1991. The Convention entered into force for the Republic of Korea on 20 December 1991.

11. The reservations to the Convention by the Republic of Korea are paragraph 3 of article 9, article 21 (a) and article 40 (2) (b) (v). The Convention guarantees children's right to maintain personal relations and direct contact with their parents when they are separated from one or both parents by the paragraph (3) of article 9, while the Civil Code of the Republic of Korea provides only parents' right to maintain relationship with their children. The Convention allows the adoption of a child by permission of competent authorities only, while Korea does not require any permission of the family court when the parents of a child make an agreement on adoption of their child, and it is possible to adopt a child with a legal report established according to the Family Registration Act. Concerning the right to reassessment of decisions, which is guaranteed in article 40, paragraph 2 (b) (v), the single-trial system in a military trial is allowed when the State is governed by martial law.

12. The reservations to the Convention by the Republic of Korea are not considered as having a great influence on children's rights. The Government of the Republic of Korea is trying to take steps on the points covered by the reservations in order to realize the children's rights the Convention ensures.

13. The Convention makes it the duty of the participating State to make its provisions and principles generally known to both children and adults in the country. The Republic of Korea did not take concrete steps to publicize the

provisions and principles of the Convention. However, the Korean Committee for United Nations Children's Fund, established in 1993, plans publicizing the Convention as the main project of this year, and the fund for this project is supported by the Government and voluntary organizations.

### 1. Measures taken to harmonize national law and policy with the provisions of the Convention

14. The Republic of Korea had been endeavouring to realize children's rights before the ratification of the Convention. The Child Welfare Act, enacted in 1961 and amended in 1981, aims to guarantee healthy birth and development of all the children of the country. This amended legislation makes clear that all children are the subject of child welfare, which is an advance over the original Child Welfare Act in which child welfare was defined as merely relief for the children in need. The Children's Charter of the Republic of Korea, promulgated in 1957 and revised in 1988, proclaims children's right to grow up with equal rights without discrimination, to receive respect as the emerging future generation and to enjoy the opportunity of developing with rectitude and self-assurance. The Youths' Charter, promulgated in 1990, proclaims the right of youth to grow up to achieve the freedom and happiness of mankind, which is required for the youth as the next generation.

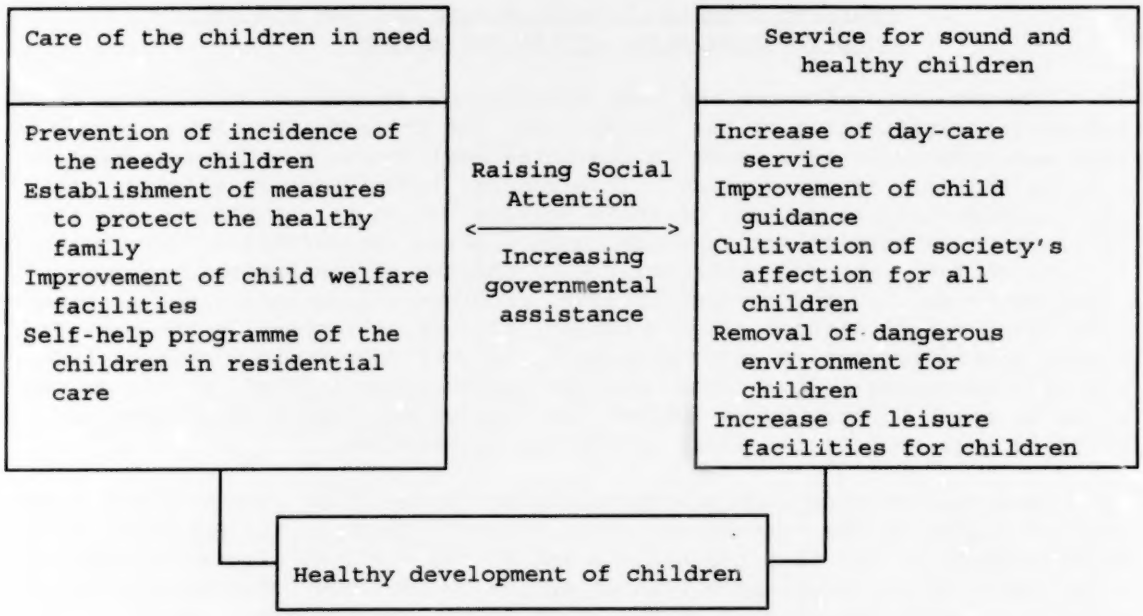
15. Measures to bring Korean conditions more closely in line with the rules and principles of the Convention included the following. The Republic of Korea signed in June 1991 the Declaration of the Survival, Protection and Development of Children and a Plan of Action to implement the Declaration in the 1990s, which was adopted at the World Summit for Children. As a consequence, a national plan of action was submitted to UNICEF in February 1992. For Korea's part, the plan of action is focused on (i) improvement in child health care, (ii) provision of safe water, (iii) food sanitation and nutrition, (iv) improvement of the quality of education, (v) improvement of maternal and child health care and family planning, (vi) free day-care programmes for the children of low-income families and the protection of employed children and youth, (vii) expansion of child facilities, (viii) the promotion of welfare for disabled children, and (ix) assistance to disadvantaged children.

16. The national plan of action in the 1990s is included in the sector on child welfare of the Seventh Five-Year Social-Economic Development Plan for the period 1992-1996. To realize children's rights in accordance with the Convention, the basic direction of the policy for children and youth is to promote their healthy development by increasing social attention and governmental support.

17. Despite this endeavour it is hard to say that children's rights presented in the Convention are fully exercised in the Republic of Korea. Many non-governmental child agencies suggest that, in order to realize children's rights, comprehensive and intensive effort must be made and that special measures are required to solve many evolving problems resulting from the rapid changes today's Korean society is experiencing.

Figure 1

Basic direction of child welfare in the seventh social-economic development plan


Care of the children in need
Prevention of incidence of the needy children
Establishment of measures to protect the healthy family
Improvement of child welfare facilities
Self-help programme of the children in residential care
Raising Social Attention
Increasing governmental assistance
Service for sound and healthy children
Increase of day-care service
Improvement of child guidance
Cultivation of society's affection for all children
Removal of dangerous environment for children
Increase of leisure facilities for children
Healthy development of children

2. Mechanism for coordinating and monitoring implementation of the Convention

18. National policies for children and young persons are handled by various government departments and national authorities. Within the Government, the Ministry of Health and Social Affairs is responsible for the policies concerning children as the main department to plan and carry out child welfare policies, while the Ministry of Culture and Sports is responsible for the policies concerning youth.

19. The Division of Child Welfare of the Bureau of Family Welfare in the Ministry of Health and Social Affairs takes charge of child welfare administration. Its main functions are: (i) counselling service for the prevention of incidence of needy children, which is practised in child guidance clinics; (ii) family protection service supporting the child-headed family, adoption and foster care programmes; (iii) residential child-care programme; (iv) sponsorship programme for disadvantaged children; and (v) self-help programmes for the children leaving residential facilities, such as providing living places and jobs. The Child Welfare Committees at central and provincial level, especially, investigate, study and deliberate issues concerning the child welfare policy and system, improvement of child-care facilities and the sound development of underprivileged children.

20. The Office of Youth Policy in the Ministry of Culture and Sports governs youth fostering policies. The Basic Act on the Youth of Korea was amended and enforced on 31 December 1991 to provide a legal ground for the effective implementation of the Basic Plan for Youth. Its main operation is: (i) developing and distributing youth fostering programmes; (ii) supporting the construction and operation of youth facilities and increasing their use; (iii) fostering, training and supporting youth leaders; (iv) supporting youth in adverse environments; and (v) developing and operating international youth exchange programmes.

21. The Ministry of Education is responsible for the education system to guide and train children and youths.

22. The Ministry of Justice tries to eliminate harmful environments detrimental to the healthy development of youth, and provides services for social reintegration to young offenders through guidance, supervision or education and training. The education and training programmes provided in juvenile reformatories aim to help them cope with the society so as to grow up as a whole person. In order to enlarge the effectiveness of remedial education, juvenile delinquents are classified and accommodated according to their characteristics and needs.

23. The role of the family court is to mediate domestic conflicts. However, when the intervention fails, a judgement is made in accordance with the ideology of child welfare, the principle of the best interest of the child.

24. The Ministry of Labour is responsible for vocational training, providing jobs and various cultural and leisure activities for children and youths who are engaged in economic activity.

25. There are many government-funded research institutes developing policies for children and youths. The Korea Institute for Youth Development carries out research on the way to protect and guide the youths, develops and distributes youth policies and programmes and trains youth leaders of the society. The Korean Educational Development Institute carries out comprehensive and scientific research on the purpose, content and methods of education, and new educational systems in harmony with Korean tradition and circumstances. It also operates the Education Broadcasting Station. The Korea Institute for Health and Social Affairs is established to assist in formulating and developing policies on health and social affairs through policy research on national health care, social welfare and population policies. The Family Policy Department in the Korea Institute for Health and Social Affairs carries out research on adoption and day-care service besides general research on child welfare policies. The Korean Women's Development Institute, established to improve and enhance women's status through comprehensive research projects on women's issues, and educational and training programmes to raise women's consciousness, develops women's potentials and initiates various action-oriented programmes concerning women, and undertakes study on children, especially on measures to assist working mothers to bring up children.

26. Non-governmental organizations are playing an important part in work for children and promotion of their rights. There are the National Teachers' League, Korea Private Institutions' League, National Parents Society for True Education, Parents Cooperation for Realization of Humane Education and Korea Youth Association as organizations related with children's education. The Korea Council of Child Organization, Korea Association of Child Welfare Facility, Korea Association of Day-Care, Korea Women's Welfare Association, Child Welfare Board and Maternal and Child Welfare Board are voluntary associations concerning child welfare.

## B. Definition of the child

27. The Child Welfare Act provides that "The term 'child' means a person under 18 years of age". The Livelihood Protection Act states that a child under 18 years of age shall be protected for a good start in life, and its material and emotional needs shall be met.

28. Persons under 20 are legally minors and have no voting rights in Korea. In order to perform any legal act, a minor must obtain the consent of its legal representative. The father or mother who exercises parental right shall become the legal representative of his/her child who is a minor. If there is no person to exercise parental right over a minor, or if a person with parental authority is unable to exercise the right or representation with respect to the legal acts or the rights of management of property of a minor, a guardian shall be appointed for the minor.

29. Children may not enter into contracts of employment. There are special rules for the protection of minors at work. A person under 18 may be employed in limited occupations only. A person under 13, with written permission for working issued by the Minister of Labour, may be employed in light work which cannot be detrimental to his/her health, development or schooling.

30. Schooling is compulsory for all children domiciled in Korea. This duty to attend school is matched by entitlement to education in elementary and middle school. Schooling ceases to be compulsory when the child has satisfactorily completed nine years' compulsory schooling. Entitlement to education (art. 28) is further discussed under the heading Education, Leisure and Cultural Activities.

31. Children committing crimes before they are 14 years old may not be sentenced under the Penal Code. A young offender less than 20 years old receives special treatment under the Juvenile Act. It is provided so in consideration of the Civil Code and other statutes regulating voting rights, in order to satisfy the objectives of the Juvenile Act. One of the objectives is to ensure fostering of juveniles by carrying out protective measures related to the environmental adjustment and character correction of juveniles demonstrating anti-social behaviours, and by providing special measures regarding criminal punishment.

32. A person of 20 years of age and over may freely marry. A man who has reached his full 18 years of age and a woman of her full 16 years of age may marry with their parents' or guardians' consent. If a minor gets married, he/she is deemed to have attained the full age and, thus, is granted legal capacity, independent from parental authority or guardianship.

33. Korean men are liable for military service in the year of their eighteenth birthday, and must attain the age of, at least, 19 if they want to be in active service during the year of acceptance. However, a person aged 17 or over who voluntarily applies for military service may be enlisted in the army, navy or air force.

34. No minimum age has been set for giving testimony in court. A child may testify if he/she is able to express himself/herself and is physically and mentally strong enough to handle all proceedings of the court. Whether the testimony made by the child is accepted or not is at the judge's discretion. A person under 16, however, cannot testify on oath.

35. A person under 20 should not smoke, drink and be a frequent visitor to the entertainment districts, according to the Minor Protection Act, whose purpose is to forbid minors from smoking, drinking and frequenting the red-light districts which may corrupt public morals on the one hand, and to guide and nurture minors properly and to protect their health on the other.

36. The minimum age for a car driving licence is 18, while a person aged 16 or over may ride a light motor-cycle.

## C. General principles

### 1. Non-discrimination (art. 2)

37. The requirements of this article are met through the Constitution. The Constitution prohibits any form of discrimination against a child by providing that "all citizens shall be equal before the law, and there shall be no discrimination in all fields of political, economic, social or cultural life on account of sex, religion or social status". It requires courts of law and administrative authorities and other agencies performing public administration duties in the course of their activities to respect universal equality under the law and to observe objectivity and impartiality. As Korea is a very homogeneous country, special mention can be made of the provisions aimed at preventing discrimination on grounds of sex, and there is little discrimination because of sex.

38. Children born out of wedlock have been receiving indifferent and/or unkind treatment due to the emphasis on the social custom of monogamy and legal marriage. The Government of the Republic of Korea, valuing every individual as equal, endeavours to treat such a child equal to a child born of a legal marriage in terms of status and property. The Civil Code provides for a child born out of wedlock not to be legally discriminated against in most areas including inheritance. However, in deciding the order of

succession to family headship, the child born during marriage has priority among lineal descendants having the nearest relationship. Also, under the Family Registration Act, whether the child was born in or out of wedlock is stated on the birth report.

39. No privileged class shall be recognized or ever be established in any form. Also, no citizen shall suffer unfavourable treatment on account of an act not of his/her own doing but committed by a relative. That is, a privileged class is not recognized and a child is, by regulation, protected from disadvantages due to actions of relatives.

### 2. Best interest of the child (art. 3)

40. Korea's policy concerning children is based on parents bearing the main responsibility for their children's maintenance and upbringing. Parents are the most important persons in the children's lives. Parents must have community support for their parenting, and parental rights may be kept within limits under some circumstances. The child must be entitled to protection from offensive treatment even from his/her parents.

41. The principle of best interest of the child is explicitly upheld in the Child Welfare Act. It is a primary consideration to deal with all areas regarding the care, custody, education and property of the child, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. This principle underlies all the measures which have been set in place for promoting the welfare of children in the Republic of Korea.

### 3. The right to life, survival and development (art. 6)

42. The Constitution provides that all citizens shall be assured dignity and value as a human being and have the right to pursue happiness. It is the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.

43. Under the Juvenile Act, a juvenile sentenced to the death penalty or penal servitude or imprisonment for life for a crime committed before 18 years of age, shall have the sentence reduced to 15 years of penal servitude. Children's right to survival and development is further dealt with in the section headed Basic Health and Welfare.

### 4. Respect for the views of the child (art. 12)

44. The parental authority has the right and duty to protect and educate the child. However, if a parental authority or its representative abuses, is guilty of gross misconduct or endangers the property of his/her child by mismanagement, parental rights are forfeited. Moreover, forfeiture or pronouncement of forfeiture of the right of representation on legal acts of the child and the right of management of the property of the child may be requested.

45. When the person with parental authority is representing a child, in the case where an obligation is to be assumed requiring any act of the child, the consent of the child itself shall be obtained. Also, a minor with the ability to express his/her own thoughts, with approval of his/her parental authority, may conduct business acts. Legal acts for the purpose of merely acquiring a right or being relieved of an obligation may be done without consent from the parental authority.

46. Pronouncement of forfeiture of parental authority may be requested by the relatives, pursuant to the provision of the Civil Code, prosecutor, Mayor of Seoul or the provincial governor, and is adjudged by the Family Court with a prior petition to the Court for Arbitration.

47. When the parents cannot reach agreement on matters concerning custody in case of legal separation, a child who is more than 15 years old is consulted as to which parent he/she wants to stay with. In case of adoption of a child aged 15 or over, the child may not be adopted without his/her own consent.

## D. Civil rights and freedoms

### 1. Name and nationality (art. 7)

48. Concerning the registration and the surname of a child, the Civil Code provides that a child shall take his/her father's surname and the origin of his surname, and enroll in the father's family registry. In the case of a child whose father is not recognized, his/her mother's surname and the origin of her surname are taken, and enrolled in the mother's family registry. However, a child whose father and mother are not ascertainable, with approval of the court, may establish a new surname and origin of surname, and establish a new family.

49. Under the Family Registration Act, parents of all children must report the date and time of birth, place, etc. at the child's birth-place, within one month from the date of the birth of the child. For foundlings and children in residential care, authorities of municipality, district, and town or the directors of the residential facilities, with the court's permission, establish the child's surname and origin of surname, and later decide on the name and permanent domicile to be entered on the family registry.

50. All children, including children born out of wedlock, foundlings, and/or stateless children, are guaranteed to acquire nationality as provided under the Nationality Act. Korean nationality is acquired by (i) a person whose father is a national of the Republic of Korea at the time of his/her birth, (ii) a person whose father died before his/her birth and who was a national of the Republic of Korea at the time of death, (iii) a person whose mother is a national of the Republic of Korea or, (iv) a person who is born in the Republic of Korea, if his/her father is unknown or they have no nationality. However, in the case of a child born of a Korean mother and a father whose country follows the birth-place principle in determining nationality, there is a possibility that the child will have no nationality.

51. All foundlings discovered in the Republic of Korea are presumed to have been born in the Republic of Korea, and therefore a child is prevented from being stateless.

### 2. Preservation of identity (art. 8)

52. No Korean citizen who is or had been domiciled in Korea may be deprived of his/her citizenship except when he/she consents to become a citizen of another country. In the case of children or minors under 20, however, it may be prescribed that citizenship is to follow the parents or one of them. The conditions on which a Korean may be deprived of citizenship are defined in detail by the Nationality Act. orean nationality is lost by (i) one who has married an alien and has acquired the nationality of the spouse; (ii) one who has been adopted by an alien and has acquired the nationality of the alien; (iii) one who once acquired the nationality of the Republic of Korea by marriage but acquired the nationality of a foreign country by annulment of the marriage or divorce; (iv) one who has voluntarily acquired the nationality of a foreign country; (v) one who, having dual nationality, relinquished the nationality of the Republic of Korea with the permission of the Minister of Justice; (vi) one who, being a minor of Korean nationality, has acquired the nationality of a foreign country by acknowledgement of an alien, with the exception that such a minor becomes the wife of an adopted child of a Korean national; (vii) an alien who has obtained the nationality of the Republic of Korea and has not lost the nationality of his original country after six months have elapsed.

53. When a person has forfeited the nationality of the Republic of Korea, he/she may restore his/her nationality with the approval of the Minister of Justice. A child of a person who acquires the nationality of the Republic of Korea and who is a minor under the law of the country, obtains the nationality of the Republic of Korea together with his/her parents.

54. A child born out of wedlock may be acknowledged by his/her father or mother. A child born out of wedlock is deemed to be born during the marriage by the subsequent marriage of the father and mother from the time of their marriage.

55. A child, any of his/her lineal descendants or the legal representative of any of them, may bring a legal action against his/her father or mother for acknowledgement. Also, an action claiming acknowledgement may be brought against the prosecutor within one year from the day on which the death of the father or mother becomes known.

### 3. Freedom of expression (art. 13)

56. Children's freedom of expression and to gather information is guaranteed under the Constitution which stipulate that all citizens enjoy freedom of speech, the press, learning and the arts. A provision to prohibit licensing and censorship is newly established in the Constitution so as to prevent violation of human rights through activation of the supervisory and critical functioning of the press.

57. Right to freedom of expression is not only the core of spiritual freedom, but also a cornerstone of a democratic society. However, unlike the intrinsic freedom of thought, the right to freedom of expression is not absolutely unrestricted, but can be restricted under some social conditions. The Constitution clearly states the specific duties and responsibilities pursuant to the exercise of this right by providing that neither speech nor the press shall violate the honour or rights of other persons, or undermine public morals or social ethics, and that if speech or the press violate the honour or rights of other persons, claims may be made for damages.

58. Articles 309 and 751 of the Civil Code are the major legal provisions regulating the incidents of abuse by overstepping the inherent boundaries of speech and the press. A person who violates others' reputation by means of the newspaper, magazine, radio or other publication with intent to defame is punished by penal servitude or imprisonment for not more than three years or by a fine not exceeding 1 million won ($1,250). A person responsible for injuring the reputation, freedom or secrets of privacy of another through unlawful acts is liable to pay compensation for the damages resulting from that behaviour. Other legal provisions concerned regulate insurrection and inducement of foreign aggression, disturbance of the public peace or instigation to destroy the national order, distribution of obscene material, etc.

59. With respect to freedom of expression, the Constitution restricts general basic rights, in which freedom of expression may be restricted by law only when necessary for national security, the maintenance of public order or public welfare. Accordingly, any necessary and reasonable restriction on freedom of expression is deemed to be allowed to a certain extent unless it violates the essential content. When the President issues an emergency decree, freedom of speech and of the press may not be subject to the general principles described above and are restricted by the emergency decree. When Extraordinary Martial Law is proclaimed, the martial law commander may take special measures by decree, as provided by law, with respect to freedom of press and publication.

### 4. Freedom of thought, conscience and religion (art. 14)

60. The provisions concerning the right of the child to freedom of thought, conscience and religion refer to rights which, in Korea, are guaranteed to every citizen through the provisions of the Constitution on freedom of conscience and religion. Although there is no stipulated provision to guarantee freedom of thought in the Constitution, it is interpreted that freedom of thought is included in the notion of conscience.

61. Freedom of conscience includes freedom from any enforcement, pressure and interference with respect to decisions of conscience and keeping silence in respect to such decisions. Accordingly, in criminal cases, the suspect or the accused shall not be compelled to testify against him/herself.

62. Freedom of religion includes: freedom of belief by which one shall not be compelled by external influences with respect to belief and can express one's religious faith freely; freedom of religious actions by which one may practise one's belief such as praying, services, reading of scriptures, etc.; freedom of religious assembly and association by which one may assemble or establish any organization for religious purposes; freedom of mission by which one may propagate one's religion and gather new believers; and freedom of religious education by which one may practise such education. Freedom of speech and the press provided in the Constitution are secured in religious activities. No religious group may be discriminated against in comparison with other groups and may produce and distribute publications.

63. The Civil Code provides that a person with parental authority has rights and duties to protect and educate his/her child, and guarantees that a parent or legal guardian has freedom to educate his/her child with religious and moral education. It is not deemed natural, however, in the Republic of Korea that the belief of a parent shall be succeeded to by his/her child. Even if students attend schools established by religious organizations, they may have their own respective religion. Any adult or child chooses his/her religion according to his/her own discretion and free intention. However, under the current system of deciding schools, from elementary to high school, except private elementary schools, in which students are allocated to the schools located nearest to the student's residence without any consideration on the student's orientation in terms of religion, students' right to enjoy freedom of religion is encroached substantially by receiving religious education they do not want and not receiving what they do want.

### 5. Freedom of association and of peaceful assembly (art. 15)

64. Under the Constitution all citizens are guaranteed freedom of assembly and association. Licensing of assembly and association is not allowed. Peaceful assembly is institutionally guaranteed. The Act Concerning Assembly and Demonstration provides that no person may disturb a peaceful assembly or demonstration and disrupt public order by means of violence, intimidation or any other means.

65. Freedom of association and freedom of assembly may be restricted by law, subject to the same conditions which apply to those concerning restrictions of freedom of expression. However, even when such restriction is imposed, no essentials of the freedom or right are violated. Therefore, while restriction by law is acknowledged, limitations thereon are provided.

### 6. Protection of privacy (art. 16)

66. It is one of the fundamental principles of democracy and the rule of law that no person should be subjected to intrusion of the kind referred to in article 16. One of the objectives declared in the Constitution is for Government to assure men and women equal rights and to safeguard the privacy and family life of the individual. The Constitution guarantees freedom of

residence, freedom of privacy and secrecy of communication. In case of seizure or search in a residence, a warrant issued by a judge upon request of a prosecutor shall be presented.

67. These rights can only be restricted by law, when, as stated earlier, speech or the press is considered to violate the honour or rights of other persons, or undermine public morals or social ethics.

### 7. Access to appropriate information (art. 17)

68. The structure of broadcasting in Korea has been changed from the public system to the mixed one of public and commercial to satisfy people's increasing need for information. The Broadcasting Act enacted in 1987, whose purpose is to engage in public opinion formation within the democratic process and to strive for the national cultural development and the public welfare, provides for extensive freedom of expression and public responsibility of broadcasting. In 1994, there were 5 television and 13 radio stations including 1 educational television station to provide educational programmes exclusively.

69. The total publications in 1991 was about 186 million books, among which children's books composed 14.5 per cent and text reference books 53.8 per cent.

70. In order to express children's and youths' dreams and ideals and to allow them to grow up in a sound cultural environment, the Government tries to produce and distribute appropriate movies. The State pays grants for good scenarios for children and youth as a part of the project to select sound films.

71. Any movie, television or radio programme offensive to the proprieties of language and behaviour of children is prohibited. The Broadcasting Inquiry Council preserves public responsibility and objectivity and promotes the quality of television and radio programmes, the Performance Ethics Commission oversees performances, movies, tapes and videos, and the Publication Ethics Commission investigates all kinds of publications.

72. All movies are classified into four grades by their contents. Movies graded as "general" are shown to the people of all age groups; movies for "persons over 13 years old" are permitted to those aged 13 or over; movies for "persons over 16 years old" are shown to persons aged 16 or over; and, "restricted" movies are permitted to persons aged 18 or over only. It is unlawful for any person below 18 years of age to enter, misrepresent or make use of any false evidence about his/her age in order to gain admission into a movie house showing a motion picture classified as restricted. It is against the law if any employee of a movie house sells to anyone below 18 years of age an admission ticket to such motion pictures. In case of doubt about the age of a person seeking admission, proof of age is required.

73. In order for children to access appropriate and healthy information, under the Child Welfare Act, those who induce a child to see a harmful show,

movie or similar public performance, and who make books, publications, advertising and other materials which might seriously hurt children's moral character, or who sell, distribute, offer, exchange, display, narrate orally or broadcast them to children or make another person to do so, are punished.

### 8. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

74. Under the Constitution, all citizens are assured the dignity and value of human beings. Torture and cruel punishment are prohibited. No citizen is to be tortured or to be compelled to testify against him/herself in criminal cases. If a confession is determined to have been made against a defendant's will by means of torture, violence, intimidation, unduly prolonged arrest, deceit, etc., such a confession is not to be admitted as evidence towards a conviction nor punishment to be meted out on the basis of such a confession. By forbidding confessions obtained by torture from being admitted as evidence, obtaining legal evidence by such means is prevented.

75. In Korea, the death penalty is provided for in the Criminal Code and the Special Laws, etc. However, crimes subject to the death penalty are limited to very serious crimes, such as crimes jeopardizing the country's existence including insurrection and killing and injuring human life. In case of such crimes, the penalties are enforced, in compliance with the proper process, by securing a judgement through fair examination by an independent and authorized court, presumption of the defendant's innocence, guarantee of the right to representations, right to appeal, and right to request a reopening of a procedure.

76. In the past, the minimum age subject to the death penalty was 16 years. On 31 December, 1988, the Juvenile Act was amended under Law No. 4057 to the effect that the minimum age was raised to 18 years. The amended Juvenile Act states that in case of the death penalty for a child of less than 18 years of age, penal servitude for 15 years shall be sentenced in place of the death penalty. Penal servitude for life for juvenile offenders has been prohibited. The Juvenile Act also provides that penal servitude for a child of less than 18 years of age is limited to 15 years.

## E. Family environment and alternative care

### 1. Parental guidance and responsibilities (arts. 5 and 18, paras. 1-2)

77. Children are the dream of tomorrow and will lead this country in the future. The basic direction of the Government's policy in the child and youth sector is to secure an optimal environment for all children and young persons to be able to grow up with a healthy mind and body. The main responsibility for care and upbringing rests with the family. Children are best brought up by their parents in their own home. One of the most important tasks of the Government is to improve and encourage family functioning so that children have enough concern and love from their parents. The Civil Code states that both parents jointly exercise parental authority over a child who has not attained the age of majority.

78. Parents are jointly responsible for the upbringing and development of their children. It places a duty on Government to provide services for children in need to help parents bring up their children. The welfare of the child is the paramount consideration when arrangements are being made for the care of children following divorce or separation of the parents. A person with parental authority has rights and duties to protect and educate his/her child.

79. Under the Labour Standards Act a female employee who is pregnant has a 60-day paid maternity leave before and after childbirth, provided, however, that paid maternity leave is granted for not less than 30 days after birth. A female employee who has an infant under one year old is guaranteed a 30-minute break for nursing twice a day. Also, a female employee with a baby aged one or less may apply for one-year child-care leave to nurture the baby including the 60-day paid maternity leave, provided by the Labour Standards Act. The period of the child-care leave is included in working years.

80. The Republic of Korea has passed and enforced the laws providing for the State's assistance to children in need to help parents perform the responsibilities of raising a child. The Maternal and Child Welfare Act has been passed and enforced in order to secure a healthy and decent life for female-headed families; the Maternal and Child Health Act, to contribute to promotion of national health by improving the health of mother and child and encouraging child's health development; the Child Welfare Act, to guarantee the child's welfare in that the child is born sound and brought up with happiness and health; the Infant's Education Promotion Act, to provide a good educational environment for infants so that they may be sound in mind and body and develop their potential, which leads them to be raised as well-rounded citizens and to contribute to the nation's development; the Infant and Pre-school Child Care Act, to bring up children as sound members of society through sound education and to care for infants and pre-school children, where their guardians are unable to care for them due to their work, ill-health or other reasons, and to make the guardians' economic and social activities more harmonious. The Livelihood Protection Act, with the purpose of promoting social welfare through securing the minimum standard of living and encouraging self-sufficiency by providing the protection required by persons who do not have the ability to maintain a living or who have a low income.

### 2. Separation from parents (art. 9)

81. In Korea the parents are primarily responsible for the child's basic needs. On the other hand, society has laid down that the basic rights and needs of all children are to be provided for. This makes it the duty of society to intervene in cases where children's basic rights are violated. If a father or mother abuses parental authority or is guilty of gross misconduct, or there exist any other cogent reasons for terminating parental rights, the court may, upon the application by any of the child's relatives or a public prosecutor, adjudge the termination of parental power.

82. The Civil Code guarantees the parent's right to maintain a relationship with the child when the parents are divorced or separated, by providing that a father or mother has visitation rights with respect to a child who has been brought up by the other parent. However, the child's right to visit and maintain a relationship with the parent is not guaranteed. The Family Court, when deemed necessary for the welfare of a child and at the request of the child concerned, may limit or terminate the parent's visitation. That is, limitation or termination of visits is allowed when a child does not want them, in the interest of the welfare of the child.

83. A child aged 15 and over may express his/her own consent when adopted. When parents are divorced or legally separated and they disagree on custody, the opinion of the child who is more than 15 years old is taken into consideration.

84. The Code of Criminal Procedure institutionalizes a written notice of arrest to be sent immediately upon arrest mentioning the reason for the arrest. The Penal Administration Act Enforcement Ordinance provides that in case of death of a prisoner, the prison officer must immediately notify the family or relatives of the cause of death, the case history, and the date and time of the person's death.

### 3. Family reunification (art. 10)

85. Freedom of residence, moving within the country, emigration and travel to a foreign country are guaranteed by the Constitution.

86. An alien with a valid passport and visa is allowed to enter Korea, except for those who may be prohibited from entering pursuant to the Immigration Control Act, such as patients with an epidemic disease, carriers of unlawful firearms, mentally disabled persons, those who are deemed to have reasons to commit an act detrimental to the social order or good morals, etc. For aliens residing in Korea their departure is guaranteed except those whose departure is suspended pursuant to the same Act, i.e. persons suspected of committing a grave crime, persons in arrears with the payment of taxes, etc. Therefore, except for those who fall under the Immigration Control Act, there is no restriction on entry and departure of children and parents as provided under the Convention.

### 4. Recovery of maintenance for the child (art. 27, para. 4)

87. Concerning article 27, paragraph 4, an account of maintenance advances is given with reference to article 27, paragraphs 1 to 3, under the heading Standard of Living.

### 5. Children deprived of a family environment (art. 20)

88. Children must be born and brought up in a family environment. Having a family environment is a child's right and is essential for healthy growing up and development. However, when a child cannot have such an environment, or

remaining in his/her parents' home is detrimental to the child's development, a child-caring institution may be a substitute. In 1993, 2,940 children were placed in residential facilities, comprising 64 per cent of children in need of such care during the year.

89. The number of residential facilities for children, established to protect orphans resulting from the Korean War, decreased after the 1970s. Residential care has been accepted as the most generalized alternative for children in need. This is due to the lack of development of substitutional caring arrangements. To develop a broad range of substitutional caring environments is one of the urgent tasks that Korea is facing to improve the welfare of children in need.

Table 2

Status of needy children and placement, 1990-1993

| Year | Total | Origin | | Placement | | |
|---|---|---|---|---|---|---|
| | | Abandoned children | Lost children | Residential care | Foster care | Adoption |
| 1990 | 5 721 | 4 213 | 1 508 | 3 734 | 1 134 | 853 |
| 1991 | 5 095 | 3 630 | 1 465 | 3 414 | 999 | 682 |
| 1992 | 5 020 | 3 294 | 1 726 | 3 122 | 1 212 | 686 |
| 1993 | 4 451 | 3 234 | 1 217 | 2 940 | 943 | 568 |

90. Foster family care, as an alternative to institutional care, is practised at an experimental level. Foster family care is classified into foster family care for adoption and for apprenticeship, and paid and non-paid foster family care. Although foster family care is emphasized and encouraged at policy level, it is still inactive and functioning merely as a stage previous to adoption. It is estimated that (i) the blood-oriented family system, (ii) economic instability, (iii) insufficient living place, (iv) deficiency in social security, such as child allowance, and (v) the lack of specialized foster family care agencies are the primary reasons for inactive foster family care.

## 6. Adoption (art. 21)

91. Adoption, regulated and administrated under the Civil Code and the Special Adoption Act, is classified into domestic adoption and intercountry adoption. Permission for adoption can only be granted if the adoption is beneficial to the child. A person under the age of 18 may not be adopted without his/her parents' or guardian's consent. A person aged 15 or over may not be adopted without his/her own consent. The applicant or the prospective parent by adoption is assessed by the adoption agency whether he/she can give

the child good care and upbringing and generally favourable conditions to grow up. In case of domestic adoption, the adoption process is completed with a legal report according to the procedure of the Family Registration Act, and in case of intercountry adoption, with the permission for emigration of the Minister of Health and Social Affairs and removal of the child's nationality.

Table 3

The trend of adoption, 1958-1993

(units: person, %)

| Year | Total | Domestic adoption | Intercountry adoption | Ratio of domestic adoption |
|---|---|---|---|---|
| 1958-1960 | 2 700 | 168 | 2 532 | 6.2 |
| 1961-1970 | 11 481 | 4 206 | 7 275 | 36.6 |
| 1971-1980 | 63 551 | 15 304 | 48 247 | 24.1 |
| 1981-1985 | 50 502 | 15 424 | 35 078 | 30.5 |
| 1986-1990 | 41 322 | 11 079 | 30 243 | 26.8 |
| 1991 | 3 438 | 1 241 | 2 197 | 36.1 |
| 1992 | 3 235 | 1 190 | 2 045 | 36.8 |
| 1993 | 3 444 | 1 154 | 2 290 | 33.5 |
| Total | 179 673 | 49 766 | 129 907 | 27.7 |

92. The recent trend of domestic and intercountry adoption is that, as shown in table 3, the number of adoptions is decreasing. It is expected that, if there is no sharp decline, about 1,000 children will be adopted within Korea and about 2,000 children to foreign countries every year. The ratio of intercountry adoption to domestic has decreased. Intercountry adoption was 2.8 times higher than domestic adoption in 1975, 3.3 times in 1987 and 1.9 times in 1993. In 1993, 1,154 children were placed for adoption in domestic families, and 2,290 children went abroad. Nine countries (United States, Sweden, Denmark, Norway, Netherlands, Australia, Belgium, France, Luxembourg) adopted Korean children. Of them, 78.9 per cent of children went to the United States. The Government seeks measures to improve the adoption system to encourage domestic adoption so as to reduce intercountry adoption by 10-20 per cent yearly.

Table 4

Distribution of intercountry adoption, 1993

| Country | Number of adoptees |
|---|---|
| United States of America | 1 807 |
| Sweden | 60 |
| Denmark | 139 |
| Norway | 104 |
| Netherlands | 4 |
| Australia | 69 |
| Belgium | 1 |
| France | 85 |
| Luxembourg | 21 |
| Total | 2 290 |

93. Domestic adoption services are carried out by 5 authorized non-profit agencies and 25 child-guidance clinics in cities, counties, and districts. Since 1988, to activate domestic adoption, the Government has given a family reduction benefit to the income tax of a family adopting a child. The upper age limit for adoption parents was increased from 45 to 55, and a housing grant up to 35 million won, equivalent to US$ 43,750, is granted to a family adopting a child.

94. Intercountry adoption services started to aid orphans and mixed-blood children born during the Korean War, was provided by four authorized non-profit organizations. Even though intercountry adoption has a procedure similar to domestic adoption, special attention and assistance to the adoptee and adopting parents and post-placement services in a concrete form are required because of the differences in ethnic background, culture and language. When the child gets the adopted country's nationality after adoption, the agency of the foreign country reports it to Korea's adoption agency. Then, Korea's adoption agency reports it to the Ministry of Law so that the child's original nationality may be deleted from Korean records. The foreign country's adoption agency makes a report on the child's progress, at least every six months, and sends it with his/her photographs to the Korean adoption agency until the child acquires the adoptive country's nationality.

95. About 86.5 per cent of all children who applied for adoption in 1993 were born out of wedlock. Poverty, death of parents and divorce are the other causes for adoption.

96. Under the Child Welfare Act, Korea forbids persons rendering assistance in connection with an adoption to derive improper financial gain from the adoption proceedings.

### 7. Illicit transfer and non-return (art. 11)

97. A person who kidnaps a child by force or inveiglement is punished by penal servitude for not more than 10 years. In particular, there is a great effort to eliminate illegal transport of children abroad by providing that a person who kidnaps by force or inveiglement or buys or sells a person for the purpose of transporting him/her out of the Republic of Korea is punished by penal servitude for not less than three years.

### 8. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

98. The duty of society to intervene in cases where a child's basic rights and needs are neglected is provided in the Child Welfare Act, the Minor Protection Act, the Labour Standards Act and the Criminal Code. In order to protect children from violence, cruelty, exploitation, etc., the Criminal Code provides that a person who delivers a child under 16 years of age who is under his/her protection or supervision over to a person who will employ the child in such work as is dangerous to life or limb, is punished by penal servitude for not more than five years. A person who kidnaps a minor by force or inveiglement is punished by penal servitude for not more than 10 years. The Additional Punishment Law of Specific Crimes provides that a person who kidnaps a child with intent to obtain pecuniary or proprietary gain or with intent to kill the child, is punished by penal servitude for life and up to the death penalty, respectively.

99. The Child Welfare Act provides that all citizens, the State and local government are responsible for the protection and sound upbringing of children. For such provisions, the Act prohibits various kinds of acts such as violence, cruelty, exploitation, etc., and such violation is punished severely.

100. The typical form of child abuse in Korea is abandonment. The incidence of lost and abandoned children has decreased, but the rate of incidence of abandoned children is 2-3 times higher than that of lost children (see table 2). Since all abandoned children caused by family conflict are cared for, Korea's protection services for abused children are focused on caring services for those children.

101. There is no standardized definition of child abuse in Korea. With the Confucian culture and tradition in which parents' and teachers' corporal punishment is considered as educational discipline and even called the "spanking of love", there has been confusion between abuse and discipline. For this reason, there has not been a growth of awareness concerning problems connected with child maltreatment and abuse, nor has a general consensus emerged. However, the problem regarding child abuse in Korea, according to small-sized surveys on child abuse, is estimated to be much more serious than had been generally assumed.

102. The Children's Rights Protection Center, as the voluntary agency for the prevention, finding and treatment of abused children, was established in 1985 within the Child Guidance Center in Seoul. The Area Agency on Child Abuse and Neglect was also organized as a substructure of the Korean Association for the Prevention of Child Abuse and Neglect in 1989. In addition, in 1990 the Parents Cooperation for Realizing of Humane Education created the "Horuragi (whistle) Hotline" as a part of the campaign to banish violence in schools.

103. Social intervention for child abuse and neglect in Korea has remained at the level of "finding-out", which is the initial stage of the way to confronting and solving the problem of child abuse and neglect. Specialized and active intervention for the prevention and treatment of child abuse by professional personnel has not developed, due to the lack of a legal device to enable professional intervention. Above all, legal institutionalization of reporting child abuse is necessary as the first step towards solving the problem.

104. The State has a plan to provide a shelter service for abused children as part of a long-term plan for promoting child welfare. In the first stage, planned for 1994 and 1995, preparing a guide for a shelter service for abused children and assisting research on child abuse are the goals. In the second stage, from 1996 to 1997, establishment of experimental child abuse centres adjacent to the Child Guidance Center in six metropolitan areas and training personnel to handle such cases are the main tasks. The last stage, set for 1998, will be the analysis of the results of the service on child abuse, its enlargement to 15 provinces, and improving laws and regulation on child abuse.

### 9. Periodic review of placement (art. 25)

105. According to the Enforcement Ordinance of the Child Welfare Act, the child welfare facility refers children to child guidance clinics, child-caring institutions, child emergency protection facilities, child vocational guidance centres, juvenile reformatories, self-supporting facilities for those discharged from child-caring institutions, foster-care facilities for adoption, and facilities for emotionally disturbed children. In December 1993, 20,194 children were cared for in 278 residential care facilities.

106. The number of child-caring institutions and children cared for in such facilities has decreased together with the number of abandoned and lost children. The Government expects that about 20,000 children, 0.15 per cent of the whole child population, will need to be cared for in residential facilities in the future.

107. The mayor, provincial governor and ward head are responsible for the periodic inspection of these child-caring institutions as to their management, programmes and financial records.

Table 5

Children in residential care, by type of institution, 1993

| Type of institution | No. institutions | No. children | Average No. children |
|---|---|---|---|
| Inst. for Infants | 38 | 2,260 | 59 |
| Inst. for Children | 218 | 16,914 | 78 |
| Vocational Guidance | 8 | 346 | 43 |
| Juvenile Reformatory | 7 | 545 | 78 |
| Self-support Assistance | 7 | 129 | 18 |
| Total | 278 | 20,194 | 73 |

Table 6

The trend of institution for infants and children, 1975-1980

| Year | No. institutions | No. children |
|---|---|---|
| 1975 | 350 | 32,996 |
| 1980 | 287 | 23,357 |
| 1985 | 271 | 24,430 |
| 1990 | 261 | 22,535 |
| 1991 | 259 | 21,333 |
| 1992 | 257 | 20,286 |
| 1993 | 256 | 19,174 |

## F. Basic health and welfare

### 1. Survival and development (art. 6, para. 2)

108. With the rapid economic development during the 1970s and 1980s, the health status of Korean children has steadily improved. The general rise in prosperity, with better housing, improved hygienic conditions and increased awareness concerning diet and nutrition, has been a powerful contributory factor of this improvement. Korea's infant mortality rate has been reduced from 38.5 per 1,000 in 1978 to 12.8 in 1992. Maternal mortality has been reduced from 4.3 per 10,000 in 1978 to 3.0 in 1988 and stayed at the same level thereafter. The institutional delivery rate has been increased from 32.0 per cent in 1977 to 98.9 per cent in 1991, and the amount of prenatal care from 57.2 per cent to 95.1 per cent during the same period.

109. Under the Maternal and Child Health Act, the Government is improving pre- and post-natal care, systems of delivery and health care for infants and children. The Maternal and Child Health (MCH) Center has been constructed within the Public Health Center to improve the health of mothers and children

by increasing institutional delivery. They are in charge of medical services for delivery, emergency treatment, family planning and pre- and post-natal care. In 1993, there were 267 public health centres with 1,329 local branches and 2,039 health clinics, together with 77 Government-sponsored MCH centres, 11 non-profit MCH centres and 12 MCH centres under the Family Planning Association providing maternity health care in the public sector.

110. The principal aim of child health care is to reduce mortality, morbidity and disability in the child population by free pre- and post-natal care. Since 1987 the Government has issued a "Maternal and Child Health Care Handbook", which contains useful information on pregnancy, child bearing and upbringing and serves to record the health conditions of the mother and her babies, for expectant mothers to promote maternity health care on a national scale. Since the Maternal Health Center gives medical, dental and general health guidance, an expectant mother can be medically examined freely at the centre whenever she wants. This preventive and promotive procedure is also applied to babies, infants and nursing mothers. Mass screening for birth defects of metabolism and neuroblastoma has been carried out. About 50,000 newborns are examined every year in the Maternal Health Centers. Free vaccinations (or with a nominal fee) for children up to age 5 are also provided. The general vaccination programme comprises tuberculosis, diphtheria, pertussis (whooping cough), tetanus, polio, measles and hepatitis B. Also, health supervision involves regular health checks for all newborns when they are 6 months old and 18 months old.

Table 7

Proportion of immunized Korean children, 0-1 year old, 1989

(unit: %)

| BCG | DPT | | | Polio | | | Measles | MMR | Hepatitis B |
|---|---|---|---|---|---|---|---|---|---|
| | 1st | 2nd | 3rd | 1st | 2nd | 3rd | | | |
| 93.7 | 98.2 | 96.4 | 93.0 | 98.2 | 96.4 | 93.0 | 92.4 | 96.3 | 71.0 |

111. The rate of breast-feeding, in spite of its importance, has decreased. According to the survey of the Korea Institute for Health and Social Affairs, the rate of breast-feeding decreased from 69 per cent in 1981 to 57 per cent in 1994. However, with the adoption of the International Baby Friendly Hospital Initiative, an active movement for breast-feeding is under way among many hospitals and voluntary organizations.

112. The main cause of hospital morbidity among children is diseases of the respiratory system, such as pneumonia and bronchitis.

113. According to the survey carried out by the Korea Institute for Health and Social Affairs, the proportion of incidence of disability among newborns was 0.6 per cent in 1992.

114. A problem that requires special consideration is children's accidents, since they represent the primary cause of death in childhood, except the case of children in the 0-1 age group, whose primary cause is congenital anomalies together with prematurity and low birth weight. With the development of medicine the rate of death from diseases has decreased, but the rate of death from accidents, especially from traffic accidents, has increased. The death from traffic accidents among children aged under 14 years was 1,566 in 1991, which was 11.7 per cent of deaths from traffic accidents of all age groups during the same year.

115. "The Five-Year Campaign To Reduce Traffic Accidents" is under way for the period 1992-1996. With this campaign the death from traffic accidents in 1992 was reduced by 13.7 per cent compared with the previous year, and children's deaths were reduced to 1,114, a decrease of some 30 per cent. Nevertheless, these figures are still high compared with those in other countries.

116. The Safety Traffic Promotion Corporation, created to prevent traffic accidents, provides traffic safety education for children to the guidance teachers of schools having more than 10 classes. A "Children Protection Zone" has also been established within a radius of 500 metres of schools in order to protect children from traffic accidents.

117. The School Health Care Act enacted 1967 has the purpose of heightening the effectiveness of school education by improving students' and teachers' health. The school free lunch programme, the main programme to improve children's nutrition, is classified by the characteristics of the region. The Government bears the expenses for the food, management and facilities for public schools. As of January 1994, 22 per cent of elementary schools were covered by this programme; it is expected that all elementary schools will be covered by the end of 1996.

### 2. Disabled children (art. 23)

118. There are about 100,000 disabled children and young persons aged up to 19 in Korea, who are 0.76 per cent of the relevant age group and require supportive measures from the community on account of their disability. They have various types of disabilities such as physical disabilities, hearing impairment, visual impairment, mental retardation and other medical disabilities. The State and municipalities are responsible for their economic security and welfare. Most disabled children grow up in their own home, together with their parents and siblings. In cases where for various reasons this is not possible, they may be placed in homes for the disabled. About 6.5 per cent of all disabled children, 6,443, were cared for in 152 residential facilities at the end of 1993.

119. The aim of Korean policy for the disabled is to assure each individual of social integration and equal opportunity. The legislation regarding the disabled are the Welfare Act for the Disabled, the Employment Promotion Act for the Disabled, and the Special Education Act. The 1988 Seoul Para Olympics provided an opportunity for people to improve their understanding of the

disabled and the welfare needs of the disabled. A comprehensive welfare plan was prepared by the Committee on Welfare for the Disabled under the President, which aims to increase the rehabilitation and social participation of the disabled.

120. Since November 1988, a registration system for the disabled has been implemented throughout the country. The Government encourages disabled persons to register in their residential area office in an effort to achieve an exact understanding of their current status and pertinent services. In order to promote disabled persons' employment, the Employment Promotion Act for the Disabled provides that governmental and municipal organizations, and enterprises with 300 employees or more must employ disabled persons for 2 per cent of their total employees.

Table 8

Estimated number of disabled children, by age, sex and types of disability

(unit: 1/1,000 persons)

| Age | Total | Sex | | Types of disability | | | | |
|---|---|---|---|---|---|---|---|---|
| | | Male | Female | Physical | Visual | Hearing | Speech | Mental |
| 0-4 | 2.61 | 3.46 | 1.61 | 0.70 | 0.43 | 0.46 | 1.04 | 1.23 |
| 5-9 | 5.69 | 6.96 | 4.30 | 2.02 | 1.36 | 0.71 | 1.83 | 2.32 |
| 10-14 | 7.46 | 8.82 | 6.01 | 2.36 | 1.49 | 0.99 | 2.80 | 2.89 |
| 15-19 | 8.28 | 10.38 | 6.10 | 3.42 | 1.39 | 1.24 | 3.00 | 2.92 |

121. Medical rehabilitation services are provided in eight rehabilitation hospitals, one of which is for disabled children only. These rehabilitation hospitals are managed with funds from the central Government (40 per cent) and local government (40 per cent); the remaining 20 per cent is self-funded. The National Rehabilitation Medical Center, with 200 beds, was established in 1994; this is where medical rehabilitation for the disabled and research on disability are carried out. As community-based services of medical rehabilitation, education and vocational training for the disabled, there are 21 welfare centre complexes at the provincial level and 13 welfare centres for certain types of disability.

122. The Korea Heart Foundation, established in 1984, is a specialized voluntary organization. It has arranged the operations of children of low-income families with heart disease or deformed hearts. So far 9,242 children have benefited from this agency with the participation of 43 medical institutions.

### 3. Health and health services (art. 24)

123. The achievement of the national health insurance programme, with the introduction of health insurance for salaried workers employed by firms with 500 or more workers in 1977, for farmers, fishermen and self-employed workers in rural areas in January 1988, and for self-employed workers in urban areas in July 1989, increased the utilization rate of health services. The rate was not significantly different by regional or socio-economic group. In 1991 more than 90 per cent of the entire population was covered by the national health insurance programme, and the State bears half of the national health insurance fee for farmers, fishermen and self-employed workers.

124. For the effective delivery of medical services a three-level health care system has been introduced in Korea. The primary medical examination is carried out in a medical office or clinic, the lowest level in the delivery system, where service is for outpatients. Secondary medical examinations are carried out in an intermediate hospital, where service is for outpatients and inpatients who are referred from medical clinics. Tertiary medical examinations are carried out in a general hospital adjacent to a university, the highest level in the health care delivery system, whose service is mainly for inpatients and referrals from the secondary medical institutions. Medical services for children also operate under the same system and procedure.

125. Korea's health service is dominated by the private or voluntary sector. About 85 per cent of all medical institutions are non-governmental. There are 2 children's hospitals and 2,188 pediatricians, who comprised 8.8 per cent of all medical specialists (24,994) in 1992. About 200 pediatricians qualify every year. The number of pediatric clinics is 1,555 at the primary health service level, 428 in hospitals at the secondary level and 34 in the general hospitals.

126. According to the National Health Survey on Morbidity, Utilization of Health Services and Health Behaviour in 1992, the morbidity rate per 100 children is 50 in the 0-4 age group, 27 in the 5-9 group and 16 in the 10-19 age group. Visits to medical institutions per 100 children is 49, 25 and 13 respectively. About 12 per cent of children in the 0-4 age group and 32 per cent in the 10-19 age group could not get medical services because of social-economic reasons.

### 4. Social security and child-care services and facilities (arts. 26 and 18, para. 3)

127. The State has the duty to promote social security and social welfare, as provided in the Constitution. There is no direct economic support given to children; it is given through their family. As a form of public assistance, the children of the families below the poverty line and in residential care are protected under Livelihood Protection-recipient householders. They are provided monthly livelihood aids to maintain a minimum standard of living, medical aid and educational expenses which cover the tuition of middle school

and vocational high school. At the end of 1993, the number of children covered by Livelihood Protection was 518,000, constituting 25.9 per cent of all beneficiaries (2,001,000) and 3.7 per cent of the entire child population. In order to promote the economic security and self-reliance of female-headed households, the State and municipalities provide livelihood aid, vocational training and child-maintenance aid and lend them housing and enterprise funds if they want assistance.

128. With rapid economic growth, modernization and urbanization, the size of households has decreased, and the rate of women's, especially mothers', employment has increased. It was estimated that about 47.3 per cent of the female population were employed in 1992. About 5,718,000 mothers were employed, constituting 46.7 per cent of all married women. Day-care or day-nursery services in Korea are provided under the Infant and Pre-school Child Care Act of 1991. With this legislation, the term "day-nursery" is replaced by "day-care" which has a more educational connotation. Day-nursery service is governed by the Ministry of Health and Social Affairs, and low-income families get financial support for children registered in the government day-nursery programme. In December 1993, the programme of day-care centres for working mothers had an enrolment of 153,270 children, 15.3 per cent of all children needing day-care service, in 5,490 units.

Table 9

Number of day-nursery centres and enrolled children, by type of centre

(units: centre, person)

| Type of centre | 1990 | 1991 | 1992 | 1993 |
|---|---|---|---|---|
| National and public | 360 | 503 | 720 | 837 |
| Private | 39 | 1 217 | 1 808 | 2 419 |
| Work | 20 | 19 | 28 | 29 |
| House | 1 500 | 1 931 | 1 957 | 2 105 |
| Total | 1 919 | 3 670 | 4 513 | 5 490 |
| No. children | 48 000 | 89 441 | 123 297 | 153 270 |

129. Since 1990, the State has promoted day-nursery services as a primary project in the area of social welfare to meet the increasing need for these services, assist the self-reliance of dual-career families and raise children with sound body and mind. As a consequence, the number of day-nursery centres has increased from 1,919 at the end of 1990 to 5,490 at the end of 1993, an average increase of 95 per cent every year, and the number of children cared for in such facilities from 48,000 to 153,270 children, with an average annual increase of 106 per cent in the same period. The State's budget for

day-nursery services also increased from 1,910 million won in 1990 to 9,850 million won in 1993 and 11,880 million won in 1994, which shows an average annual increase of 75.4 per cent.

130. There is no specialized day-nursery service for disabled children. Since most parents are not in favour of integrating their children with disabled children, the latter cannot have an opportunity to participate in organized pre-school activities. The State plans to construct six day nurseries for disabled children only by the end of 1996.

131. The State is carrying out research on the projected need for day-nursery services. In further support for development of the day-nursery sector, about 118 billion won ($148 million) will be allocated for the establishment by 1997 of 731 day-nursery centres which will care for all the children of working mothers. In addition, various kinds of day-nursery programmes are being developed and operated to provide a high-quality service in accordance with each child's developmental stage.

### 5. Standard of living (art. 27, paras. 1-3)

132. Korea has provided selective welfare programmes for the underprivileged, based on the principle that the family is primarily responsible for each member's welfare and that the social security system is secondary to the family. Emphasis has been put on strengthening the welfare function of the family and preventing the occurrence of needy children.

133. Besides public assistance, there is a sponsorship programme as a measure to lift the standard of living of children in adverse circumstances. The sponsorship programme supplements public assistance, which is not enough for attaining a proper standard of living. It is provided to children in residential care, child-headed households and female-headed households. The sponsors send a certain amount of money on a monthly basis and, at times, visit the children. Since 1981 the Korea Children's Foundation, one of the specialized non-governmental child welfare agencies, has been placed in charge of the sponsorship programme to promote voluntary participation from the non-governmental sector.

134. The child-headed household project was started in 1985 to prevent children in need from institutionalization and to support them to live in their community. They are children and young persons under the age of 20 whose parents are not able to provide proper care, economically and emotionally, because of death, divorce, physical or mental disability or disease. As a result, those children have to be responsible for their family's livelihood. They are provided with livelihood aid, medical aid, educational assistance and appropriate support for clothing, food and transportation. In 1993, there were 7,322 child-headed households with 14,293 members. In 1992, 98.6 per cent of child-headed households and 86 per cent of children of such households had sponsors; each child receives about 25,000 won on average monthly from his/her sponsor.

Table 10

The trend of child-headed households, 1985-1993

(units: household, person)

| Year | No.households | No. household children, by school attendance | | | | | |
|---|---|---|---|---|---|---|---|
| | | Total | Pre-school | Primary | Middle | High | Others |
| 1985 | 6 696 | 13 778 | 142 | 3 593 | 4 009 | 2 998 | 3 036 |
| 1986 | 6 537 | 13 633 | 195 | 3 552 | 3 970 | 2 782 | 3 164 |
| 1987 | 6 901 | 14 416 | 350 | 3 735 | 4 200 | 2 578 | 3 553 |
| 1988 | 6 510 | 13 960 | 385 | 3 777 | 4 049 | 2 121 | 3 628 |
| 1989 | 6 029 | 13 233 | 450 | 3 749 | 3 814 | 1 632 | 3 588 |
| 1990 | 4 901 | 11 125 | 410 | 3 356 | 3 133 | 1 135 | 3 091 |
| 1991 | 6 902 | 13 985 | 121 | 3 650 | 4 093 | 3 194 | 2 927 |
| 1992 | 7 089 | 14 081 | 136 | 3 521 | 4 404 | 3 374 | 2 646 |
| 1993 | 7 322 | 14 293 | 119 | 3 331 | 4 710 | 3 622 | 2 511 |

## G. Education, leisure and cultural activities

### 1. Education, including vocational training and student guidance (art. 28)

135. Under the Constitution all citizens have the right to receive an equal education corresponding to their abilities, and all citizens who have children to support are responsible at least for their elementary education and other education as prescribed by law.

136. Schooling is compulsory for all children. Under the Education Act every citizen has a right to receive elementary school education of six years and middle school education of three years as compulsory schooling. Compulsory schooling starts in March when a child reaches the age of seven. Normally a child finishes his/her compulsory schooling of 9 years at the age of 16. The central Government and local autonomous bodies have the responsibility to devise necessary measures for securing educational facilities.

137. Korea's educational system is, generally, composed of elementary school of six years, middle school of three years, high school of three years and college education of two or four years or more. In April 1993 11,460,000 students were enrolled in 19,790 educational institutions, which was a quarter of the whole population. There are 410,000 teachers and

professors employed in the formal educational institutions. Of these students, 5,253,138 were female constituting 45.8 per cent of the students. These schools are supervised and evaluated by the Ministry of Education, 15 municipal Offices of Education and their 179 local branches. The number of students per class, one of the representative educational indicators, has decreased to 38 students in elementary school, 48 in middle school, 47 in high school as of April 1993.

Table 11

Number of schools, classes and students by school level, 1993

| | School | Class | Student | No.students/class |
|---|---|---|---|---|
| Kindergarten | 9 484 | 18 841 | 288 020 | 15 |
| Elementary school | 6 057 | 111 870 | 4 336 833 | 38 |
| Middle school | 2 590 | 49 639 | 2 410 116 | 48 |
| High school | 1 757 | 43 381 | 2 069 218 | 47 |

138. Foreign children residing in Korea are also able to receive the same education as Korean children. In November 1990, there were 58 educational institutions with 6,260 foreign children aged up to 19.

(a) Types of school

139. Since 1950 compulsory education at the elementary level has been free of charge. However, when a child of school age is unable to receive education on account of any deformity, disability, weakness, underdevelopment, or other unavoidable reasons, the child may be excused from or permitted to defer attendance, the purpose of which is to prevent adverse side-effects from the standardized operation of compulsory education. The purpose of primary school is to provide the basic elementary and general education necessary for national life.

140. When a child of overseas Koreans or foreigners residing in Korea wants to enter or be transferred to a school in Korea for the first time, he/she can have the same education as Korean children receive by submitting to the headmaster of the school a residential certificate issued by the chief of the Immigration Bureau.

141. Children graduating from elementary school have a right to receive middle school education of three years. Compulsory education for middle school has been gradually enforced in accordance with the financial status of the State from the island areas in 1985 to county level in 1992. In April 1993, 99.9 per cent of elementary school graduates moved on to middle schools. Of these, 17.3 per cent are educated free of charge. The proportion of students

educated free of charge in middle school is expected to reach 25.1 per cent by 1994. The purpose of middle school is to provide general education on the foundation of elementary school education. The curriculum also includes understanding pending issues around the world, such as disease, poverty, drought and starvation, overpopulation, pollution, and the destroyed environment.

142. After compulsory schooling there is optional education with a choice between vocational training, which is classified as technical, commercial or agricultural high school, and pre-university education, which is provided in a general high school. In April 1993, 99.1 per cent of middle school graduates received further education in high school. The distribution ratio of vocational to general high school is 35:65. The purpose of high school education is to give advanced general education and professional education on the foundation of the middle school education. In particular, the importance of international understanding and cooperation stemming from increased interdependent relationships in our international society is emphasized.

143. Korea guarantees a relatively broad range of educational opportunities. There are 297 higher education institutes including two-year junior colleges and four-year colleges and universities where 1,995,047 students, representing 56.5 per cent of the 18-21 age group, are enrolled. Educational opportunities are expected to grow with the policy to increase specialized manpower in the manufacturing sector.

144. Students can enjoy the benefit of study loans with low interest rates because the Government covers half the interests.

145. Kindergartens function to promote children's healthy growth by providing them with an appropriate educational environment. As of April 1993, 47.3 per cent of children were enrolled in kindergarten. It is planned to reach 60 per cent of children by 1998 through increasing the number of kindergartens.

146. Special education for the disabled children is provided under the Special Education Act. Special education is offered in various forms, which is free from kindergarten up to high school, and compulsory for elementary and middle school. The education is provided in the special school branches adjunct to the residential care facility for the disabled, special schools, and special classes within general schools, dispatched teachers of special education, etc. in due consideration of the area's circumstances, the distribution of disabled children and the degree of disability. The national budget for special education is 75 billion won ($93.8 million) in 1992 and 83.2 billion won ($104 million) in 1993, which constitutes 0.85 per cent of the education budget.

147. The Ministry of Education estimates that 244,000 children need special education, including 46,000 children with severe disabilities and 198,000 children with relatively slight disabilities. Children with severe disabilities are educated in special schools and children with slight

disabilities in special classes within general schools. There are 12 special schools for the visually impaired, 20 schools for the hearing impaired, 57 schools for the mentally retarded, 11 schools for the physically disabled and 3 schools for the emotionally disturbed. A total of 106 special schools provided special education to 20,985 children with severe disabilities in April 1993. Also, there are 3,321 classes with 28,210 children with relatively slight disabilities. However, these cover only 20.2 per cent of the disabled children needing special education (45.7 per cent of children with severe disabilities and 14.3 per cent of children with relatively slight disabilities), and the remaining 79.8 per cent of disabled children cannot receive proper education and training.

Table 12

Status of special education, 1993

| Classification | Types of disability | No.schools | No.classes | No.students |
|---|---|---|---|---|
| Special school | Visual disability | 12 | 154 | 1 359 |
| | Hearing/speech disability | 20 | 396 | 4 007 |
| | Mental retardation | 57 | 1 117 | 12 598 |
| | Physical disability | 14 | 242 | 2 568 |
| | Emotional disturbance | 3 | 45 | 453 |
| | Total | 106 | 1 954 | 20 958 |
| Special class | General school | 2 638 | 3 321 | 28 210 |

148. The State plans to construct 33 special schools and 3,350 special classes in the period 1993-2001. In order to achieve a high-quality education, a school inspector for special education has been appointed, and the administrative unit for special education in central and local government will be strengthened. The National Institute for Special Education was established for the purpose of studying efficient teaching methods, developing proper teaching materials and training teachers for special education.

149. Private schools constitute 31.9 per cent of all schools, and students enrolled in private schools constitute 32.8 per cent of all students. The proportion of private schools in higher education is fairly high: 73.9 per cent, with 74.4 per cent of the students. The Government grants subsidies to the private institutes for financial deficits.

Table 13

Status of private schools, 1993

| Classification | Total schools | Private schools (%) | Total students | Students in private schools (%) |
|---|---|---|---|---|
| Kindergarten | 8 515 | 4 001 (47.0) | 469 380 | 356 048 (75.9) |
| Elementary school | 6 057 | 76 (1.3) | 4 336 252 | 67 392 (1.6) |
| Middle school | 2 590 | 700 (27.0) | 2 410 874 | 616 287 (25.6) |
| High school | 1 757 | 893 (50.8) | 2 069 210 | 1 281 383 (61.9) |
| Junior college | 128 | 120 (93.7) | 456 227 | 434 765 (95.3) |
| College/University | 138 | 102 (73.9) | 1 109 622 | 825 532 (74.4) |
| Others | 605 | 424 (70.0) | 611 675 | 176 085 (28.8) |
| Total | 19 790 | 6 316 (31.9) | 11 463 240 | 3 757 492 (32.8) |

150. Vocational guidance and training are provided in high schools. Besides vocational high schools, general high schools also provide vocational guidance and training to students who want to have a job after graduating from high school. Their curricula and teaching methods for vocational training are organized and carried out according to those of the vocational high schools.

151. Vocational training aims to fulfil the manpower demands of a rapidly changing industrial society. It was introduced with the Vocational Training Act in 1976. There are about 200,000 children and young adults who cannot continue their studies at a higher level for various reasons. Most of them do not have appropriate skills and the knowledge needed for proper jobs. Any person aged 14 years or more may receive vocational training if he/she wants to. The expense for vocational training is charged, in principle, by the person or agency that provides the training. After completing vocational training, students are offered a job through the Area Employment Agency.

152. For children and young adults who cannot continue their studies because of financial difficulties or a job, there are radio and correspondence middle schools and high schools, and night and special classes which are attached to industrial bodies for middle-or high-school education of their working juveniles.

153. A person who has passed the qualification examination or who completed a certain course at non-formal education institutes is entitled to the same qualification as the person who has completed formal education.

154. Juvenile delinquents who lost educational opportunities due to their delinquency may also have an opportunity to continue their studies. The school curriculum in reformatories provides regular primary, middle and high school education and gives the same qualification to students as the regular schools.

(b) Education budget

155. It has traditionally been considered that investment in education is the basis for national development and prosperity. The education budget has a high priority. The education budget is used mostly for compulsory education, financial assistance to private schools, vocational guidance and training, and teachers' retraining. The education budget has been increased every year, and this tendency seems to be continuing.

Table 14

Size of education budget

(units: billion won, %)

| | GNP (A) | Gov. budget (B) | Min. of education budget (C) | Local education budget (D) | Expenses for compulsory education (E) | Ratio (%) | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | C/A | C/B | E/C |
| 1985 | 78 088 | 12 532 | 2 492 | 2 124 | 1 557 | 3.2 | 19.9 | 62.5 |
| 1990 | 171 488 | 27 464 | 5 595 | 4 837 | 2 642 | 3.3 | 20.4 | 47.2 |
| 1993 | 256 685 | 41 936 | 9 880 | 8 684 | 4 301 | 3.7 | 23.6 | 43.5 |

156. The Enforcement Ordinance of the Education Act prescribes it a duty of parents or guardians to encourage regular attendance at school. The headmaster may send out a warning to his/her parents, guardian or employer when a student is absent for more than seven days in a row, or the child's compulsory education is hindered by his/her employer. When the warning is not effective, the headmaster reports it to the chief of the province, and the chief issues a second warning to the child's parent or guardian. If this fails, the superintendent of the educational office imposes a fine.

157. Koreans have high expectations of education and are sometimes over-enthusiastic about educating their children. As a result, Korea has a quite low rate of drop-outs. A student who wants to leave school must submit to the school a letter of withdrawal accompanied by the parents' or guardian's signature. Also, the rate of attendance in high school is reflected on the screening test for college entrance so as to prevent voluntary absence not caused by illness or accidents.

158. Internationalization of education is one of the goals of education policy in Korea. International cooperation in the education sector is maintained at different levels. A curriculum of educational internationalization has been drawn up (see paras. 141-142 above) and a number of schools have direct international contacts and joint programmes with overseas schools.

## 2. Aims of Education (art. 29)

159. The purpose of education in Korea is, as the Education Act prescribes, to achieve the integration of character and to build up the abilities for an independent life and the qualifications of citizenship and thus contribute to the development of a democratic society and realize the idea of co-prosperity based on the idea of "Hongik Inkan"- the greatest service for the benefit of mankind.

160. To achieve the purpose of national education as described in paragraph 159, the following education guidelines have been set up.

(a) Nourishment of the knowledge and habits necessary for the sound growth and maintenance of the body, and the cultivation of an indomitable spirit;

(b) Cultivation of a patriotic spirit for the country and nation in order to preserve and develop the nation's independence and to advance the cause of world peace;

(c) Inheritance and enrichment of the national culture and thus contribution to the development of the cultures of the world;

(d) Fostering the truth-seeking spirit and the ability to think scientifically for creative activities and a rational life;

(e) Encouragement of peaceful association with the community in a spirit of faithfulness, cooperation, respect, love of freedom and a high regard for responsibility;

(f) Development of an aesthetic sense in order to appreciate and create sublime fine arts, enjoy the beauty of nature, and to utilize leisure time effectively for an enjoyable life; and

(g) Encouragement of thriftiness and faithfulness to one's work in order to become an able producer and a wise consumer for a sound economic life.

## 3. Leisure, recreation and cultural activities (art. 31)

161. Although the family provides its child with an adequate environment, a child cannot live without contacts with the community. For this reason the community has the task to develop various programmes and activities for children's sound development and to build a safe environment for playing. Play is as important as study for children. Children build up creativity through play; they get self-confidence by testing and proving their ability. Children grow up and become mature through interaction with others. The Child Welfare Act prescribes the State's and municipalities' responsibility to construct children's facilities, such as children's parks, playgrounds, children's halls, theatres, museums, exhibition halls, etc., for children to use whenever they want. The Children's Charter also prescribes that children should be given adequate space and facilities for happy and wholesome play and recreation. Since children are said to grow up while playing, it is the

responsibility of the grown-ups to provide children with adequate facilities and comfortable surroundings in which children can play without any disturbance or any danger.

162. However, it is difficult to say that Korean children fully enjoy their right to play. The Ministry of Culture and Sports governs and carries out various cultural activities to build a healthy youth culture against the examination-oriented education and vulgar popular culture. The State plans to construct 1,394 children's facilities for the period 1992-1996.

163. All standards and ways of life for adults are applied to children without any adjustment, because children are considered and treated as mini-adults or immature adults. Children have lived in a society possessing an adult-oriented structure. Even though recognition of the child as a subject of rights began to prevail, the investment for children is not significant yet in all areas including culture.

## H. Special protection measures

### 1. Children in conflict with the law

#### (a) The administration of juvenile justice (art. 40)

164. Judicial procedure in Korea is governed by the Code of Judicial Procedure. Where young persons are concerned, rules are also contained in the Juvenile Act. Since juvenile delinquents are in the process of growing up, they have a high possibility of being rehabilitated. For this reason, education, rather than punishment, is more emphasized. The Juvenile Act prescribes that young offenders shall be treated according to a different procedure from adults. Measures for proper guidance other than penal procedures are provided for the young offender.

165. Concerning paragraph 2 (a), reference can be made to the Constitution, under which no citizen may be prosecuted for an act which does not constitute a crime under the law effective at the time it was committed. According to the provision, retroactive application of punishment is strictly prohibited. The principle to the effect that retroactive application of punishment is prohibited, which is set forth in the Constitution, is provided for in detail in the Criminal Code. When a law is changed after the commission of a crime, such act thereby no longer constituting a crime (under the new law), or the punishment therefore (under the new law) being less severe than under the previous law, the new law shall apply. When a law is changed after the sentence for a crime committed under the law has become final, such act thereby no longer constituting a crime, the execution of the punishment shall be remitted. According to the provision, the defendant shall be guaranteed to receive benefit from the amendment of law.

166. As regards paragraph 2 (b) (i), the principle of presumption of innocence is stipulated in the Constitution, which provides that a criminal defendant is presumed innocent until a determination of guilt has been confirmed. The Code of Criminal Procedure also provides that the accused shall be presumed to be innocent until he/she is finally adjudged to be guilty. The Rules of Criminal Procedure provide that documents or any other articles which may cause the

court to create presupposition on the case shall not be attached to the indictment. Presumption of the criminal defendant to be innocent is the firm basic principle of criminal procedure.

167. The rule of paragraph 2 (b) (ii), system of notice of reason for arrest, corresponds to article 12, paragraph 5, of the Constitution, which provides that no one may be arrested or detained without being given notice about the reason and the right to be assisted by counsel. The reason for, time and place of arrest or detention must be informed without delay to the family of a person arrested or detained, as designated by law. The Code of Criminal Procedure provides that the accused shall not be placed under detention before the court has informed him/her of the gist of facts constituting the offence, of the reason for detention and of the fact that he/she may select defence counsel, and before the court has given him/her the opportunity to defend him/herself. When the accused is detained, he/she shall be informed of the facts concerning the public prosecution against him/her and of the facts that he/she may select his/her defence counsel.

168. With respect to the defendant's right to receive defence free of charge, the Constitution provides that when a criminal defendant is unable to secure counsel by his own efforts, the State shall assign counsel for the defendant as provided by law. According to the system of assignment of counsel by the State, the Code of Criminal Procedure provides that where the accused is a minor, 70 years of age or over, deaf or mute, suspected of mental unsoundness or unable to select a counsel because of any other reason, if there is no counsel, the court shall appoint a counsel ex officio.

169. Under the Juvenile Act the juvenile concerned or his/her guardian may, with the approval of judges of the Juvenile Department, appoint an assistant.

170. Concerning the general requirement of a fair and prompt trial in paragraph 2 (b) (iii), reference can be made to the Constitution which provides that all citizens shall be equal before the law. Moreover, the Constitution guarantees the right of fair public trial by independent court, the right to be tried in conformity with the law by judges qualified under the Constitution and the law, and the right to a speedy trial. A criminal defendant has the right to a public trial without delay in the absence of justifiable reasons to the contrary.

171. As regards paragraph 2 (b) (iv), the Constitution provides that no citizen shall be tortured or to be compelled to testify against him/herself in criminal cases. In case a confession is determined to have been made against a defendant's will by means of torture, violence, intimidation, unduly prolonged arrest, deceit, etc., such a confession shall not be admitted as evidence towards a conviction nor shall punishment be meted out on the basis of such a confession. Statement by forcible demand against a defendant's will is prohibited and involuntary confession by means of torture, violence, intimidation etc., is not admitted, as well. In a criminal case, the judge does not admit confession of an accused which is suspected to have been made involuntarily or confession against himself without corroborating evidence, as evidence of guilt. The Code of Criminal Procedure provides for the accused's right to refuse to answer inquiries and that the suspect shall be notified in advance that he/she may refuse to answer questions.

172. A public prosecutor, the accused or his/her defence counsel may raise objections regarding the examination of evidence. The Code of Criminal Procedure provides that the public prosecutor, the accused, or his/her defence counsel can apply for necessary examination of evidence without distinction and the presiding judge shall ask the accused for his/her opinion about the examination of articles of evidence and shall inform him/her that he/she can apply for necessary examination of evidence for the protection of his/her rights. In addition, the Code of Criminal Procedure admits that the accused or his/her defence counsel may be present at the examination of a witness.

173. When a presiding judge recognizes that a witness or an expert witness cannot make a sufficient statement in the presence of the accused, he/she may order the accused to withdraw from the court; however, the defence counsellor may be present at the examination of the witness. Even in such a case, the accused may make inquiry relative to the matter and if the testimony of a witness contains an unexpected and serious statement which is disadvantageous to the accused, the court shall give notice of the contents of such statement to the accused. Thus, the accused's right to cross-examination is sufficiently secured.

174. The stipulation of the Convention in paragraph 2 (b) (v), concerning the right to reassessment of decisions whereby a child can be deemed to have committed a criminal offence, is partly provided for through the faculty of appeal in all criminal proceedings. Judicial power is vested in courts composed of judges. The courts consist of the Supreme Court, which is the highest court of the State, and other courts at specified levels. The Code of Criminal Procedure provides in detail for the accused's appeals including appeal, reappeal and immediate appeal, and reopening of procedure and extraordinary appeal. Therefore, if the finding of the court of first instance is not satisfactory, appeal may be lodged by the accused. Further, if there has been a violation of the Constitution and law, an appeal may be lodged against a judgement to the Supreme Court. If after a judgement of guilty is pronounced and the judgement becomes final, new evidence is discovered which indicates "not guilty", a request for reopening of proceedings may be made.

175. Children's right to an interpreter under paragraph 2 (b) (vi) is guaranteed in the Code of Criminal Procedure. In case a person not versed in the Korean language or with a hearing of visual impairment is required to make a statement, an interpreter is provided. Letters, signs or marks not in the Korean language are also translated. Expenses required for the interpreter, such as daily allowance, travelling and accommodation expenses, are borne by the Government.

176. The rule of paragraph 2 (b) (vii), whereby a child is to be assured of respect for his/her private life at all stages of the procedure, is stipulated in the Juvenile Act providing that trials shall not be made public. However, when deemed appropriate, the judge may permit certain persons to attend the trial. Facts or photographs which may identify the juvenile, i.e. name, age, occupation, appearance and other things, shall not be published in newspapers or other publications, nor shall they be broadcasted. In case of violation of the provision, editors, publishers, authors and broadcasters may be punished with penal servitude or imprisonment or a fine.

177. For Korea's part, the stipulation in paragraph 3 (a) of a minimum age for criminal liability is met through the provision of the Penal Code. An act of a criminal minor who has not attained 14 years of age is not subject to criminal punishment. Juveniles above the age of 12 but less than 14 years old who have committed acts which are contrary to criminal laws and decrees are tried as protection cases by the Juvenile Department.

178. As regards paragraph 3 (b), the Juvenile Act provides measures for proper guidance other than penal procedures. Those who are under standard or short-term probation may be required to perform public service or receive counselling at the same time. Also, reprieve of prosecution is provided through the protective guidance of Juvenile Guidance Instructors of the Prosecutor's Office. Concerning juvenile delinquency, there is a provision to postpone exercising penal punishment or probation programmes.

179. As regards appropriate treatment of a juvenile suspect, under the Juvenile Act investigation is made not only of the misdeed of the juvenile concerned but also of his environment. The Juvenile Department conducts an in-depth investigation of the juvenile, taking into account the diagnosis of psychiatrists, psychologists, social workers, educators and other experts, as well as results and opinions by the Juvenile Classification Office. In addition, the Juvenile Act provides that trial of juvenile criminal cases shall be conducted in a spirit of kindness and gentleness toward the juvenile, and particular emphasis is placed on evaluation of the juvenile's physical and mental condition, character, career, family conditions and other circumstances.

180. For the education of juvenile delinquents, separate juvenile reformatories provide education, vocational training, and special training. Juvenile delinquents are accommodated by their age, educational level, aptitude, prospects, degrees of difficulty in correction, etc., and thus are effectively protected from malignant influences. At the school curriculum reformatories, pursuant to the Education Act, regular primary, middle and high school curricula are taught, and entrance and transfer to schools are encouraged. At the vocational training reformatories, pursuant to the Rudimentary Vocational Training Education Act, public vocational training is provided; 700 inmates annually attain technical licences in 17 different fields including automobile maintenance. Specific felonious criminals such as gang members are accommodated at the special reformatory, where special education such as physical training is offered. In order to encourage democratic and cooperative attitudes, special activities are provided 10 hours weekly through selected possible areas such as arts and letters, physical education, labour service and raising of animals and plants.

181. Those who are provisionally discharged are under intensive supervised probation and given guidance for jobs, forming of relationships and entering schools, and thus are actively supported for social adaptation and integration. Also, there are efforts to prevent misadaptation for the discharged, by providing ex post facto instruction.

(b) Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial setting (art. 37 (b), (c) and (d))

182. As regards article 37 (b), reference is made in the Constitution guaranteeing all citizens' personal liberty. No person is arrested, detained, seized, searched or interrogated except as provided by law, or is subject to punishment or preventive restriction except by law and due process of law. Warrants issued by a judge upon the request of a prosecutor in accordance with the due process of law shall be presented in case of arrest or detention. Therefore, the principle of due process and of presentation of warrants is adopted to guarantee personal liberty.

183. The Code of Criminal Procedure has various provisions strictly restricting requirements and procedures for arrest pursuant to the foregoing provisions and principles of the Constitution. The court may detain the accused when there are reasonable grounds to suspect that he has committed a crime and he falls under any of the following: (i) when he has no fixed dwelling; (ii) when there is reasonable ground to suspect that he may destroy evidence; and (iii) when he escapes or there is reasonable ground to suspect that he may escape. In such cases, a warrant of arrest shall contain the name and address of the accused, the name of the crime, essential facts concerning the public action, the place to bring the accused or prison where he is to be detained, the date of issue, effective period of the writ and a statement that the warrant shall not be executed after the lapse of such period whence it shall be returned to the court of issuance, and after issuing the warrant signed and sealed by the presiding judge. Such warrants shall be shown to the accused.

184. In case of an arrest of a suspect for detention by a prosecutor or judicial police officials, in principle, the prosecutor or judicial police officials may arrest the suspect with a warrant of detention issued by the competent court judge upon request of the prosecutor. A public prosecutor or judicial police official may arrest suspects without a warrant: (i) if there are good reasons to suspect that the person has committed crimes punishable with the death penalty, penal servitude or imprisonment for life or three years or more; (ii) if there are reasonable grounds to suspect that he may destroy evidence or may escape or has escaped; (iii) if it is not possible to obtain a warrant of arrest from a judge of the competent district court due to urgent need; or (iv) in case of flagrant offenders. However, even in such cases, if the public prosecutor or judicial police official fails to obtain a warrant of arrest within 48 hours or 72 hours from the time of the arrest from a judge of a District Court, the suspect shall be released immediately. According to the above provisions, the exceptional cases shall be subject to ex post factor sufficient judicial control.

185. A criminal case involving a juvenile requires special treatment through different procedures from those of an ordinary criminal case unless there exists any special cause. Concerning separate treatment of a juvenile delinquent and security of contact with family, the Juvenile Act provides that in the event a criminal case involving a juvenile is related to other ordinary case, the trial of the juvenile case shall be conducted separately from the other case if such treatment does not obstruct the trial proceedings.

186. Under the Penal Administration Act, convicted persons who are under 20 years of age are accommodated in juvenile reformatories and convicted persons who are 20 or more in age are accommodated in prisons. Even if adult and juvenile delinquents are accommodated in the same prison, they are held separately.

187. Under the Juvenile Reformatory Act, males and females, and persons under 16 and persons over 16 are accommodated separately so as to block the influence of wrongdoing. Newly entering juvenile delinquents are housed separately from general juvenile delinquents. After a 10-day investigation for purposes of classification, the Juvenile Delinquent Treatment Deliberation Committee determines duration of treatment and education course in detail, on the basis of the results of the investigation and screening.

188. There are 11 juvenile reformatories throughout the country, which are classified according to their function as follows: four juvenile reformatories for school education, three for vocational training, one for females, two for major and habitual juvenile delinquents and two for combined education and vocational training. Based on the juvenile delinquent's sex, age, entry experience, existence of confederates, characteristics of crime, duration of treatment and education course, the juvenile delinquent is accommodated in a separate facility or accommodated separately within the same facility.

189. Family visits are permitted at a fixed time and place unless such visits cause the disruption of protection and reformative education of the juvenile. With respect to correspondence, there is no restriction on the frequency and destination. However, if it is found that the contents of a letter may cause disruption of reformative education, exchange of correspondence may be restricted so as to harmonize the education and privacy of the juvenile. If it is especially necessary for reformative education, the juvenile under protection is allowed out for events concerning his lineal family. This provision enables the juvenile to improve relations with the family and adjust to society.

190. As regards the provision of subparagraph (d) on the right to legal and other assistance, reference can be made to the Constitution which provides that all persons who are arrested or detained shall have the right to request the court to review the legality of the arrest or detention. The Code of Criminal Procedure provides that a suspect who is confined pursuant to a warrant of confinement may submit a petition to an appropriate court to examine the legality of the confinement with respect to all crimes. Also, where the accused is a minor, the court may appoint counsel ex officio. Accordingly, the provision stipulates special protection of juveniles whose capability of legal relief is relatively weak.

191. Juvenile delinquency decreased after 1990. In 1992, juvenile delinquency composed 6.4 per cent of all crimes. Most juvenile cases are dropped or dismissed; about 27.5 per cent of the cases were prosecuted in the same year. The rate of suspended prosecution of youths is 25 per cent higher than that for all crimes.

Table 15

Proportion of juvenile delinquency

(units: number, %)

| Classification | 1988 | 1989 | 1990 | 1991 | 1992 |
|---|---|---|---|---|---|
| Total crimes | 1 144 702 | 1 337 587 | 1 402 417 | 1 540 914 | 1 542 035 |
| Juvenile delinquency | 104 052 | 108 015 | 105 567 | 102 537 | 99 301 |
| Ratio | 9.1 | 8.1 | 7.5 | 6.7 | 6.4 |
| Rate of prosecution | 39.4 | 39.3 | 36.9 | 39.3 | 27.5 |

(c) The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a))

192. The Constitution prohibits any acts involving torture and other such acts. The death penalty is provided for in the Criminal Code and the Special Law. Under the Juvenile Act, the minimum age to be subject to the death penalty is 18 years of age, and in case of a sentence of the death penalty or penal servitude for an unlimited period pronounced against a child of less than 18 years of age, a penalty of penal servitude for 15 years is imposed instead.

(d) Physical and psychological recovery and social reintegration (art. 39)

193. When a youth is released to his/her parents or guardians from the rehabilitation centre or juvenile reformatory, after-care services are provided. These are designed to promote reintegration of the youth in the community and productive activities so that the person can be self-supportive without being involved with another delinquency. Such activity is performed by the rehabilitation committee at the central and provincial level under the Ministry of Justice. There are 12 local centres and 52 branches established in prisons and juvenile reformatories. In addition, the Society for the Support of Rehabilitation is organized, most of whose members are businessmen of small- or medium-sized companies. Its service is focused on vocational guidance including offering jobs, medical care, vocational training, financial assistance, paying transportation fees and lending enterprise funds.

2. Children in situation of exploitation, including physical and psychological recovery and social reintegration (art. 39)

(a) Economic exploitation, including child labour (art. 32)

194. The Labour Standard Act contains a number of provisions concerned with young workers. The Act specifies that no child below 13 years old shall be employed in any work except for those who have obtained an employment authorization certificate from the Minister of Labour. His/her employment shall cause no impediment to compulsory education. A child under 18 years shall not be authorized to engage in any work detrimental to morality or harmful to the maintenance of health.

195. The working hours of those not less than 13 years old but less than 18 years old shall not exceed 7 hours per day and 42 hours per week. However, the working hours may be extended by one hour a day and six hours a week by mutual agreement. A person under 18 years is banned from working at night, between 2200 hours and 0600 hours, or on any off-day, unless otherwise agreed to by the employee and authorized by the Minister of Labour.

196. In order to prevent economic exploitation of children, their employment contract and minimum wage are protected. No parent or guardian has the authority to make an employment contract on behalf of a minor employee. When it may be deemed as disadvantageous to a minor employee, the parents, the guardian or the Minister of Labour may terminate the employment contract. The minimum wage is also guaranteed for a minor employee after six months of his/her employment.

197. In order to protect employed children's rights, chapter 12 of the Labour Standard Act contains punitive provisions for each violation, and 45 local labour offices guide and supervise all enterprises or places of employment with a permanent workforce of five or more employees.

198. In April 1992, 32,952 children aged under 18 were economically active, which covered 0.6 per cent of the entire workforce. Of them, the number of young workers under 13 was 118, 27 boys and 91 girls, and that of young labourers between 14 and 17 was 32,834, 3,846 boys and 28,988 girls. Most of the young workers were employed in the manufacturing industry.

(b) Drug abuse (art. 33)

199. In order to protect children from the illegal use, production and trade of drugs, the Government punishes persons who sell psychotropic substances to children under 14 years of age by penal servitude of not more than 10 years or a fine not exceeding 10 million won. Persons who manufacture, import or sell opium, morphine or its derivatives, or who possess them for the purpose of sale, are punished by penal servitude for not more than 10 years.

200. The Hemp Control Act prohibits the import, export, manufacture, sale and purchase or brokerage, smoking or intake of hemp and any acts to provide places, facilities, funds or means of transport for dealing in hemp. With respect to habitual violators, the maximum punishment may be a death sentence, otherwise penal servitude for life or for not less than 10 years.

201. Treatment and rehabilitation of drug addicts are accomplished through 17 national or public hospitals and 5 private hospitals which are authorized as specialized hospitals for drug abusers. They are treated with no charge. For the specialized and efficient treatment of drug addicts, a National Drug Rehabilitation Centre with 200 beds is being constructed. While the number of drug addicts is decreasing, harmful chemical addictions, such as to bond or protan gas, are causing a new problem. According to the survey on drug addiction among the youth, including to chemical materials, 45,000-88,000 adolescent addicts are estimated to need treatment or intervention. As this problem is fairly new, the Government's policy for prevention and treatment has not yet been established. The chemical addicts

may be treated in a psychiatric ward. Since chemical material addiction is, however, not covered in the national health insurance, the use of the treatment facility is not as easy as for drug abuse.

(c) Sexual exploitation and sexual abuse (art. 34)

202. In order to protect children from sexual exploitation and abuse, the Criminal Code provides that a person who induces a minor female to engage in sexual intercourse and takes any monetary gain, shall be punished by penal servitude for not more than three years or by a fine not exceeding 600,000 won. Under the Child Welfare Act a person who forces a child to commit or mediates an obscene act, or who induces the child to engage in an obscene act, shall be punished by penal servitude for not more than 10 years or by fine not exceeding 5 million won.

203. The Prostitution Prohibition Act forbids prostitution, inducement to or coercion of prostitution, exhortation to be a partner in prostitution, or the provision of a place for such acts. Violators are punished by penal servitude for not more than three years. Illegal sexual exploitation acts on children are punished severely under this Act.

204. The Act Concerning Restriction on Immoral Business provides that a person who provokes prostitution or obscene acts or who brokers or provides such acts shall be punished by penal servitude for not more than three years or by a fine not exceeding 20 million won.

205. The manufacture of pornographic materials is prohibited under the Criminal Code. A person who, for the purpose of distribution of obscene pictures, etc., manufactures, possesses, imports or exports obscene goods, is punished by penal servitude for not more than one year or by a fine not exceeding 400,000 won.

(d) Other forms of exploitation (art. 36)

206. Of the Korean rules and measures for preventing the exploitation of children, special reference can be made to the Child Welfare Act. Article 18 of the Act forbids various kinds of exploitation as follows: (i) exposing a disabled or deformed child to public inspection; (ii) having a child beg or asking for alms, thereby taking advantage of the child; (iii) having a child under 14 years of age do acrobatics with the object of public recreation or entertainment; and (iv) having a child under 14 years of age engaged in a bar or other entertainment business. The person who violates this provision is punished by imprisonment for not more than 10 years or a fine not exceeding 5 million won.

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